

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI

STATE OF ARKANSAS, et al.,

Plaintiffs,

v.

MIGUEL CARDONA, *in his official capacity*
as Secretary of Education, et al.,

Defendants.

No. 4:24-cv-636-RWS

JOINT MOTION TO STAY PROCEEDINGS PENDING APPEAL

The parties jointly and respectfully request a stay of all district court deadlines and proceedings in this case until 30 days after the mandate returns to this court from the ongoing appeal at the Eighth Circuit of the order partially granting preliminary relief in this case.

This case involves a challenge to the Department of Education’s Final Rule implementing Title IX, *Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Financial Assistance*, 89 Fed. Reg. 33,474 (Apr. 29, 2024). This Court granted in part Plaintiffs’ request for a preliminary injunction. ECF No. 54. Defendants appealed that decision to the Eighth Circuit. *See Arkansas v. Cardona*, 24-2921 (8th Cir.) (appeal noticed September 20, 2024). At the request of the parties, the Court entered an order that the parties file a joint status report with a proposed briefing schedule for cross-motions for summary judgment 21 days after the September 20, 2024, production of the administrative record—so, October 11, 2024. ECF No. 59.

In light of that deadline to propose further proceedings and the appeal, the parties have conferred about potential next steps in this case and respectfully request that the Court stay further district court proceedings until Defendants’ appeal is resolved.

Good cause exists for a stay. “[T]he power to stay proceedings is incidental to the power

inherent in every court to control the disposition of the causes on its docket[.]” *Cottrell v. Duke*, 737 F.3d 1238, 1248 (8th Cir. 2013) (quoting *Landis v. N. Am. Water Works & Elec. Co.*, 299 U.S. 248, 254 (1936)). This includes “broad discretion to stay proceedings as an incident to its power to control its own docket.” *Clinton v. Jones*, 520 U.S. 681, 706 (1997). “How this can best be done calls for the exercise of judgment, which must weigh competing interests and maintain an even balance.” *Landis*, 299 U.S. at 254-55. A stay must be “so framed in its inception that its force will be spent within reasonable limits, so far at least as they are susceptible of prevision and description.” *Id.* at 257.

As a general matter, the Eighth Circuit’s resolution of Defendants’ appeal may have a “substantial effect” on the claims here, which is a “good” reason, “if not an excellent one,” for staying further district court proceedings in the interim. *Miccosukee Tribe of Indians of Fla. v. S. Fla. Water Mgmt. Dist.*, 559 F.3d 1191, 1198 (11th Cir. 2009). Pressing on with such proceedings would therefore be an inefficient use of the parties’ and the Court’s time and resources. *See Perrin v. Papa Johns Int’l, Inc.*, 2014 WL 306250, at *3 (E.D. Mo. Jan. 28, 2014) (granting a stay in part due to potential investment of judicial resources). Moreover, a stay of district court proceedings would not prejudice any party.

Accordingly, for the foregoing reasons, the parties respectfully request that the Court stay further district court proceedings in this case until thirty days after the mandate from the current appeal is returned to this Court from the Eighth Circuit. The parties additionally propose that they file a joint status report addressing further proceedings at that time.

Dated: October 11, 2024

Respectfully submitted,

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**Admitted pro hac vice*

***Admitted pro hac vice, practice supervised by
one or more D.C. Bar members while D.C. Bar
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CERTIFICATE OF SERVICE

I hereby certify that on October 11, 2024, I electronically filed this document with the Court by using the CM/ECF system, and that this document was distributed via the Court's CM/ECF system.

/s/ Clayton L. Bailey